## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION

|                        | 1:11cv. | 35 |              |
|------------------------|---------|----|--------------|
| SYNOVUS BANKS,         |         | )  |              |
|                        |         | )  |              |
| Plaintiff,             |         | )  |              |
|                        |         | )  |              |
| v.                     |         | )  | <b>ORDER</b> |
|                        |         | )  |              |
| CHARLES KIMMEL, JEREMY |         | )  |              |
| KIMMEL, JAY LURIE and  | )       |    |              |
| ELIZABETH POST,        |         | )  |              |
|                        |         | )  |              |
| Defendants             |         | )  |              |
|                        |         | )  |              |
|                        |         |    |              |

Pending before the Court is Plaintiff's Motion to Dismiss Defendants'

Counterclaims [# 11]. In response to the motion, Defendants filed a twenty-nine page brief. Defendants, however, failed to seek leave of Court for filing a brief that exceeds the page limitations set forth in the Court's Local Rules. See LCvR 7.1(D). Moreover, Defendants failed to include a certificate of service with its response, as required by the Local Rules. See. LCvR 5.3. Accordingly, the Court STRIKES the Memorandum in Opposition to Motion to Dismiss [# 12].

Defendants shall have five (5) days from the entry of this Order to submit a response to the Motion to Dismiss that complies with the Court's Local Rules. The Court will not grant an extension of the page limitations. The Court INSTRUCTS

construing their failure to comply as a consent to the dismissal of the counterclaims and recommend that the District Court dismiss the counterclaims.

Signed: October 6, 2011

Dennis L. Howell

United States Magistrate Judge